

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION**

**IN RE: BAYOU SORREL
 CLASS ACTION**

CIVIL ACTION NO. 6:04CV1101

JUDGE HAIK

MAGISTRATE JUDGE METHVIN

**REPORT AND RECOMMENDATION OF SPECIAL MASTER
WITH RESPECT TO THE OUT-OUT RESERVE**

In an effort to determine whether or not this matter was in a posture where it could be considered final and closed by the Court, the Special Master requested that the parties advise as to the status of the Opt-Out Reserve issue that was previously before the Court. In response, the plaintiffs' provided report attached hereto as Exhibit A. The response of the defendants is attached as Exhibit B.

In its ruling of October 7, 2009, the Court stated "The Opt-Out Reserve shall be terminated upon the earliest of the following to occur: (a) the date when all claims of Opt-Out Parties are released and dismissed with prejudice or (b) the date when the amount held in the Opt-Out Reserve is reduced to zero, or (c) such earlier date as agreed upon by the CPS Liaison Committee and the PSC."

The plaintiffs' submission confirms that there are only 36 remaining opt-out claims that have not signed releases. The Affidavits submitted with the plaintiffs' report verify that lawsuits have not been filed by the 36 opt-outs. It is clear that these 36 claims are prescribed.

Section 8.11 of the settlement agreement provides: "The Court shall retain jurisdiction over the Litigation, the Settlement Agreement, the Final Order and Judgment, the Class Settlement

Fund, the Escrow Agreement, the Escrow Account, the PSC, the Class Members, and the Compromising Parties solely for the purpose of administering, supervising, construing and enforcing the Agreement and the Final Order and Judgment and supervising the management and disbursement of the funds in the Escrow Account (without prejudice to the rights of any party to contest personal jurisdiction for any other purpose). Any dispute that arises under the Agreement shall be submitted to the Court. If any dispute is so submitted, each party concerned shall be entitled to fifteen (15) days' written notice (or otherwise as the Court may for good cause direct) and the opportunity to submit evidence and to be heard on oral argument as the Court may direct."

It is the report and recommendation of the Special Master that the Court should consider the remaining 36 opt-out claims as being prescribed and as such, the status as prescribed claims serves as the legal equivalent to the requirement of a release and dismissal of these claims with prejudice. This determination would be a reasonable and logical construction of the intent of the Agreement.

Accordingly, the Special Master reports and recommends that the Court consider the remaining 36 opt-out claims as being prescribed and thus the equivalent to being released and dismissed with prejudice, within the intent of the terms of the Agreement. The Special Master further reports and recommends that the Opt-Out Reserve be terminated.

/s/ PATRICK A. JUNEAU
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Special Master
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CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2011, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all known counsel of record who are participants. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following:

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Lafayette, Louisiana, this 27th day of April, 2011.

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